

## **Remarks**

### **1. Summary of the Office Action**

In the Office Action mailed August 14, 2009, the Examiner rejected claims 1-3, 5-10, 14-16, 18-20, 35-37, 58, 60-65, and 69-75 under 35 U.S.C § 103(a) as allegedly being unpatentable over U.S. Patent Application Pub. No. 2001/0046366 (Susskind) in view of U.S. Patent No. 7,124,356 (Alsafadi), and rejected claims 11-13, and 66-68 under 35 U.S.C § 103(a) as allegedly being unpatentable over Susskind in view of U.S. Patent Application Pub. No. 2007/0240181 (Eldering).

### **2. Status of the Claims**

Presently pending are claims 1-3, 5-16, 18-20, 35-37, 58, and 60-75, of which claims 1, 35, 58, and 60 are independent, and the remainder are dependent.

### **3. Response to Rejections under 35 U.S.C. § 103(a)**

The Examiner rejected claims 1-3, 5-10, 14-16, 18-20, 35-37, 58, 60-65, and 69-75 under 35 U.S.C § 103(a) as allegedly being unpatentable over Susskind in view of Alsafadi, and rejected claims 11-13 and 66-68 under 35 U.S.C § 103(a) as allegedly being unpatentable over Susskind in view of Eldering. Applicant notes that the Examiner has used a previous version of claim 1 as the basis for rejecting claim 1. Accordingly, Applicant believes that an interview would expedite prosecution and respectfully requests an opportunity to speak with the Examiner before issuance of the next Office Action.

Applicant submits that the combination of Susskind and Alsafadi fails to reasonably or logically lead to the invention claimed in each of Applicant's independent claims 1, 35, 58, and 60. Applicant first directs the discussion to claim 1, and then subsequently addresses claims 2-3, 5-16, 18-20, 35-37, 58, 60-65, and 69-75.

Regarding claim 1, the combination of Susskind and Alsafadi does not reasonably or logically lead to:

“at the server, receiving a first request relating to a first media-based device from a first user at a first client device via the first web portal, the first web portal using a first format for exchanging data with the at least one database via the API;” (Emphasis added.)

and

“at the server, receiving a second request relating to a second media-based device from a second user at a second client device via the second web portal, the second web portal using a second format for exchanging data with the at least one database via the API, wherein the second format is different from the first format.” (Emphasis added.)

In rejecting claim 1, the Examiner relied on claim language that was provided in an amendment dated December 29, 2008. Applicant has since amended the claims (once in a submission dated February 27, 2009, and once further in a submission dated April 30, 2009) to include, *inter alia*, the limitations recited above. The Examiner evidently relied on a previous version of claim 1 for rejecting the current claim 1, and in any case has not pointed to any specific teaching in Susskind or Alsafadi that reasonably or logically leads to any of the claim limitations recited above. Particularly, the Examiner has not pointed to any teaching in Susskind or Alsafadi, or explained how the combination would reasonably or logically lead to receiving at a server two separate requests relating to two separate media-based devices **via two separate web portals**.

As Applicant has previously argued, Susskind teaches a Web Site Host that might be analogous to the claimed web portal. But Susskind only teaches **one** Web Site Host, and therefore teaches at most only **one** web portal (if even that). In any case, Susskind does not teach two web portals, and therefore does not and cannot teach receiving at a single server both (i) a first request relating to a first media-based device from a first user at a first client device **via a**

**first web portal**, and (ii) a second request relating to a second media-based device from a second user at a second client device **via a second web portal**, such as claim 1 recites.

Applicant notes that in the *Response to Arguments* section of the current Office Action, the Examiner generally stated that “there are no teachings in Susskind that prevent multiple devices from being accessed simultaneously.” Notably however, Applicant’s arguments in previous responses do not depend on whether or not Susskind even teaches this functionality. Therefore this assertion is not relevant as to whether Susskind alone or in combination with Alsafadi teaches the invention of claim 1.

Moreover, even if this was relevant, Applicant submits that the absence in a cited reference of any teaching away from a particular claim element is not sufficient to establish that the claim element reasonably or logically follows from the cited reference. And therefore a mere statement that there are no teachings in cited reference that prevent a particular claim element is not sufficient to establish a *prima facie* case of obviousness. According to MPEP § 2142, “rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness.” Since the Examiner has not articulated, with any rational underpinning, why a server receiving two separate requests relating to two separate media-based devices **via two separate web portals** reasonably or logically follows from the combination of Susskind and Alsafadi (in which Susskind only discloses a single Internet Remote Control Host Server connected to a single Web Site Host), Applicant respectfully submits that a *prima facie* case of obviousness of claim 1 does not exist.

The Examiner relied on Alsafadi for the sole teaching of “a variety of XML formats and API for controlling various media-based devices.” But in light of Susskind’s failure to teach

multiple web portals (as established above), there is no platform in Susskind for using the multiple XML formats for controlling various media-based devices. Additionally, Alsafadi does not make up for the noted deficiency in Susskind of multiple web portals, and particularly, receiving a first request relating to a first media-based device from a first user at a first client device **via a first web portal**, and a second request relating to a second media-based device from a second user at a second client device **via a second web portal**.

In light of the above, Applicant respectfully submits that the combination of Susskind and Alsafadi does not reasonably or logically lead to claim 1 as previously presented. As such, a *prima facie* case of obviousness does not exist and claim 1 is allowable.

Each of independent claims 35, 58, and 60 include, *inter alia*, elements similar to the limitation of claim 1 discussed in the preceding paragraphs herein. Applicant submits therefore that claims 35, 58, and 60 are allowable as well over the combination of Susskind and Alsafadi.

Each of claims 2-3, 5, 7-10, 14-16, 18-20, 36-37, 60-65, and 69-75 depend, in one way or another, from one of claims 1, 35, or 60, all of which are allowable for at least the reasons discussed above. Applicants submit that for at least the reason that they depend from an allowable claim, claims 2-3, 5, 7-10, 14-16, 18-20, 36-37, 60-65, and 69-75 are allowable as well. Further, Applicants do not concede any of the Examiner's specific assertions with respect to claim 2-3, 5, 7-10, 14-16, 18-20, 36-37, 60-65, and 69-75.

Each of claims 6, 11-13, and 66-68 depends, in one way or another, from one independent claim 1 or 60, both of which are allowable for at least the reasons discussed above. Applicants submit that for at least the reason that they depend from an allowable claim, claims 6, 11-13, and 66-68 are allowable as well. Further, Applicants do not concede any of the Examiner's specific assertions with respect to claim 6, 11-13, and 66-68.

#### 4. Conclusion

Applicant submits that the application is in good and proper form for allowance and therefore respectfully requests favorable reconsideration. If the Examiner believes a telephone interview would expedite prosecution, the Examiner is invited to call the undersigned at 312-913-3351.

Respectfully submitted,

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